

DRAFT
Subject to Legal Review for Accuracy, Clarity, and Consistency

[LETTERHEAD]

[DATE]

The Honorable Susan C. Schwab
United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Dear Ambassador Schwab:

In connection with the signing on this date of the Korea-United States Free Trade Agreement (the “Agreement”), I have the honor to confirm the following understanding reached by the Governments of the Republic of Korea and the United States during the course of negotiation of Chapter 18 (Intellectual Property Rights) of the Agreement.

The Parties agree on the objective of shutting down Internet sites that permit the unauthorized reproduction, distribution, or transmission of copyright works, of regularly assessing and actively seeking to reduce the impact of new technological means for committing online copyright piracy, and of providing generally for more effective enforcement of intellectual property rights on the Internet. Korea agrees that internet piracy of copyright¹ works and other subject matter protected by copyright (including unauthorized reproduction and distribution of such works on the Internet) is a matter of priority for law enforcement of intellectual property rights. Korea also agrees on the objective of shutting down Internet sites that permit the unauthorized downloading (and other forms of piracy) of copyright works, including so-called webhard services, and providing for more effective enforcement of intellectual property rights on the Internet, including in particular with regard to peer-to-peer (p2p) services. Korea will strengthen enforcement of intellectual property rights in Korea. Korea will work to prevent, investigate, and prosecute internet piracy. In doing so, Korea will work with the private sector, the other Party, and other foreign authorities.

In furtherance thereof, Korea agrees to issue as soon as possible, but no later than six months after entry into force of the Agreement, a policy directive establishing clear jurisdiction for effective enforcement against online piracy pursuant to a division or joint investigation team that will investigate and take criminal action for online piracy, including with respect to U.S. and other foreign works, whether *ex officio* or at the request of a right holder, in a manner that is transparent to right holders. In addition to prosecuting direct infringers, Korea agrees to prosecute individuals and companies that profit from developing and maintaining services that effectively induce infringement.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an integral part of the Agreement.

Sincerely,

¹ For purposes of this side letter, **copyright** shall also include related rights.

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Kim, Hyun-chong

[Reply Letter Forthcoming]